

Appl. No. 09/773,241  
Atty. Docket No. 8409  
Amdt. dated 6/12/03  
Reply to Office Action of 2/21/03  
Customer No. 27752

### REMARKS

Claims 1-20 are pending in the present application. No additional claims fee is believed to be due. Claim 20 is canceled without prejudice. Claim 1 has been amended to more specifically characterize the discontinuity claimed in the at least one side panel to the interior surface and to add a single fastener to the the at least one side panel. Support for the amendment is found at page 13, lines 19-29, page 14, lines 1-30, page 15 lines 1-3 and Figures 1-4 of the specification. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

#### Rejection Under 35 USC 102 Over US Patent No. 4,850,988 issued to Aledo

Examiner rejected Claims 1-3, 5-10, 14, 16-17, 20 under 35 U.S.C. 102(b) as being anticipated by Aledo US Patent No. 4,850,988. According to Examiner, Aledo discloses a disposable article comprising a containment assembly (Figure 3 member 22) longitudinal edges, at least one side panel carried by the containment assembly (Figure 3 members 15 and 16), and extending outwardly, the at least one side panel including an inner region having at least one discontinuity (Figure 3, member 18) for dividing a tensile force applied to the at least one side panel into a waist-directing force and a leg-directing force (col. 3 lines 44-54; col. 4 lines 10-17).

As shown in Figure 3 of Aledo, the slit 17 in the side panel pointed out by Examiner extends from an interior portion denoted by circular cutout 18 to an outer portion along the side edge 27 forming two distinctive adhesive regions (Column 1, lines 36-40, Column 3 lines 44-47 and Figures 1-3). As a result, the operation of closing and fastening the diaper of Aledo around the waist of the wearer can be accomplished independently of the operation of adjusting the fit of the diaper around the thighs (Column 4, lines 10-15). Therefore, the invention disclosed in Aledo requires four separate adjustments when assembling the diaper to a wearer which can be viewed unfavorably by consumers.

Unlike Aledo, Claim 1 of the Applicants' invention has been amended herein to further characterize the discontinuity claimed by limiting it to the interior surface of the at least one side panel and to include a single fastener for releasable engagement of the at

Appl. No. 09/773,241  
Atty. Docket No. 8409  
Amdt. dated 6/12/03  
Reply to Office Action of 2/21/03  
Customer No. 27752

least one side panel with a surface of the containment assembly. The single fastener per side panel requires only one adjustment per side panel, as opposed to four, and in conjunction with the discontinuity limited to the interior of the side panel, transmits a tensile force into the waist-directing force and the leg-directing force when the single fastener is pulled laterally outward.

Consequently, Claim 1 of the Applicants' invention as amended per this response is not anticipated by Aledo. Similarly, Claims 2-3, 5-10, 14, 16-17 are not anticipated by Aledo as a result of their dependency upon Claim 1.

#### Rejection Under 35 USC 103(a) Over Aledo

Claims 4, 18, and 19 have been rejected under 35 USC 103(a) as being unpatentable over Aledo. Applicants respectfully traverse this rejection. Aledo does not establish a prima facie case of obviousness because it does not teach or suggest all of Applicants' claim limitations. Claims 4, 18, and 19 are dependent upon claim 1 which as explained above has been amended per this response to further characterize the discontinuity claimed in the at least one side panel by limiting it to the interior surface of the at least one side panel and to include as single fastener for releasable engagement of the at least one side panel with a surface of the containment assembly. Aledo, teaches a slit in the side panel extending from an interior region to the edge of the diaper providing two adhesive regions (fasteners) per side panel. In fact, Column 1, lines 35-40 of Aledo explains "One object of the invention is to interrupt the force-transmitting continuous surface which occurs in one-adhesive-region systems, by providing a cut at such adhesive region, which allows the two resulting adhesive regions to work independently from another one." Therefore, Aledo not only fails to teach Applicant's invention, it actually teaches away from the Applicants' invention. Consequently, Claims 4, 18, and 19 of Applicants' invention are unobvious in view of Aledo and therefore, patentable over Aledo.

#### Rejection Under 35 USC 103(a) Over Aledo in view of Zelazoski

Claim 11-13, 15 has been rejected under 35 USC 103(a) as being unpatentable over Aledo in view of Zelazoski. Applicants respectfully traverse this rejection for the

Appl. No. 09/773,241  
Atty. Docket No. 8409  
Amdt. dated 6/12/03  
Reply to Office Action of 2/21/03  
Customer No. 27752

aforementioned reasons. Further, Applicants assert that Aledo does not provide one skilled in the art the necessary motivation to combine it with Zelazoski. Aledo is directed to a diaper having a double fastening system with a slit while Zelazoski is directed to quilted film laminate wherein the film is laminated to a fibrous nonwoven substrate making it particularly suitable as a body side liner material for personal care products including diapers. Even if the necessary motivation were present, the combination would result in a diaper having a double fastening system and quilted film laminate body side line which in no way resembles the invention claimed in Claims 11-13 and 15 of the Applicants' invention. Consequently, Claims 11-13 and 15 of Applicant's invention are patentable over *Aledo* in view of Zelazoski.

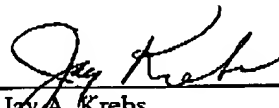
#### Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. 102 and 35 U.S.C. 103(a). Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-19.

Respectfully submitted,

JOHN C. MOLANDER, ET AL.

By   
Jay A. Krebs  
Attorney for Applicant(s)  
Registration No. 41,914  
(513) 626-4856

June 12, 2003  
Customer No. 27752